

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ONEBEACON AMERICA INSURANCE
COMPANY,
Plaintiff,

CIVIL ACTION
NO: 04-11753-JLT

vs.

BLUE WATER ENTERPRISES, INC.
Defendant.

PLAINTIFF'S STATUS REPORT

Now comes the plaintiff, OneBeacon America Insurance Company, in the above-entitled action, by and through its undersigned attorneys, Clinton & Muzyka, P.C., and respectfully reports its status.

On November 10, 2005, the parties filed a joint motion requesting that the time periods contained in the August 22, 2005 Order endorsed by this Honorable Court be extended. As grounds in support, the parties advised that they could not comply with the deadlines contained therein because the three (3) shipyards they originally agreed upon to submit repair estimates were not interested. The parties selected three (3) substitute shipyards and the Court allowed the joint motion on November 17, 2005 and issued an Amended Order as requested.

Since that time, the three (3) substitute shipyards selected by the parties have advised that they are not

interested, despite their previous representations that they would be willing to inspect the defendant's vessel and provide the requested repair estimates. The parties have selected a total of seven (7) shipyards during the past six (6) months, but none of them have been interested because they cannot commit to performing the work based upon their limited schedules, or have concerns regarding the assured and the pending litigation.

The plaintiff is eager to conclude this matter and, as a result, has requested that the Umpire exercise his authority under the controlling insurance policy and unilaterally select and engage a shipyard for the sole and limited purpose of inspecting the defendant's vessel and providing a repair estimate in accordance with his findings. The plaintiff has requested the defendant's position in this regard and is currently awaiting a response. The Umpire is willing to proceed in this fashion in order to bring this matter, which has been pending since August 9, 2004, to a conclusion.

For the foregoing reasons, the parties have been unable to comply with the deadlines contained in the Amended Order. The plaintiff has filed this report in advance of the March 7, 2005 Status Conference.

Respectfully submitted,

"/s/Kenneth M. Chiarello"

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